

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**JAMES D. JOHNSON, as next friend to
Olivia Y., et al.**

PLAINTIFFS

vs.

CIVIL ACTION NO.: 3:04-CV-251-TSL-FKB

**PHIL BRYANT, as Governor
of the State of Mississippi, et al.**

DEFENDANTS

MOTION TO STRIKE THE DECLARATION OF MARCIA ROBINSON LOWRY

Defendants file this Motion to Strike the Declaration of Marcia Robinson Lowry ("Lowry Declaration") [Dkt. 622-11] filed in support of Plaintiffs' Renewed Motion for Contempt and for Appointment of a Receiver ("Motion for Contempt") [Dkt. 622] and in support of this Motion state as follows:

1. On March 9, 2015, Plaintiffs filed a Motion for Contempt requesting that this Court find Defendants in contempt and for the appointment of a general receiver with full authority to administer Mississippi's child welfare system [Dkt. 622].

2. In support of that Motion, Plaintiffs filed the Lowry Declaration [Dkt. 622-11]. A copy of the Lowry Declaration is attached hereto as Exhibit "A."

3. On May 22, 2015, this Court entered an Amended Scheduling Order for the Motion for Contempt [Dkt. 646]. The Amended Scheduling Order provides that "[D]iscovery and the hearing shall be limited to and concern events occurring during Implementation Periods 3 and 4; accordingly, no evidence shall be presented, nor discovery conducted, concerning events that occurred subsequent to June 30, 2014, the final day of Implementation Period 4." [Dkt. 646]

at ¶[9]. Implementation Period 3 began on July 6, 2012. [Dkt. 571]. Therefore, Plaintiffs' Motion for Contempt is limited to events occurring between July 6, 2012 and June 30, 2014.

4. The Lowry Declaration concerns events that occurred subsequent to June 30, 2014, and, thus, after the prescribed time period.

5. Due to the self-explanatory nature of this Motion, Defendants respectfully request that the Court waive any requirement that a supporting memorandum of law be filed.

WHEREFORE, PREMISES CONSIDERED, Defendants request that the Court not consider the Lowry Declaration and strike it from the record. Defendants request such other and further relief, in law or in equity, to which they may be entitled.

Respectfully submitted, this the 15th day of June, 2015.

/s/ Dewitt L. ("Rusty") Fortenberry, Jr.
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CERTIFICATE OF SERVICE

I, Dewitt L. Fortenberry, Jr., do hereby certify that I have on this day, electronically filed a true and correct copy of the forgoing document with the Clerk of Court using the ECF system which sent notifications of such to counsel as follows:

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SO CERTIFIED, this the 15th day of June, 2015.

/s/ Dewitt L. ("Rusty") Fortenberry, Jr.